

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

The proposed amendments change the rule that allows children in court-approved subsidized guardianship homes to receive state-funded medical assistance coverage to:

- Limit this coverage group to children for whom Iowa has financial responsibility, as originally intended;
- Remove the upper age limit for consistency with the subsidy program;
- Provide eligibility for children who leave Iowa if they are not eligible for medical assistance through their new state of residence; and
- Clarify that ineligibility under other coverage groups or in another state must be due to substantive eligibility requirements, not due to a failure to provide information or to comply with other procedural requirements.

The proposed amendments also provide that income from the guardianship subsidy is exempt both as income and as a resource. This change is consistent with the way foster care payments are handled and will allow many children in the adoption subsidy program and perhaps other family members to qualify for federally funded Medicaid coverage.

These amendments do not provide for waivers in specified situations because the exemption of subsidized guardianship payments, the removal of the age limit, and the provision for children who leave the state confer benefits. The provision that excludes children for whom Iowa does not have financial responsibility and who are ineligible under other coverage groups or in other states only because of a failure to comply with procedural requirements does not provide for waivers because all such cases should be treated the same. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 3, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3.

The following amendments are proposed.

ITEM 1. Amend subrule 75.1(11) as follows:

75.1(11) *Individuals ~~under the age of 18~~ living in a court-approved subsidized guardianship home for whom the department has financial responsibility in whole or in part. Medical* When Iowa is responsible for a subsidized guardianship payment for a child pursuant to 441—Chapter 204, medical assistance will be available to ~~individuals under the age of 18 living in a court-approved subsidized guardianship home~~ the child under this subrule ~~provided they are not otherwise eligible for medical assistance under a category for which federal financial participation is available.~~ if the child is living in a court-approved subsidized guardianship home and either:

a. The child lives in Iowa and is not eligible for medical assistance under a category for which federal financial participation is available due to reasons other than:

(1) Failure to provide information, or

(2) Failure to comply with other procedural requirements; or
b. Notwithstanding the residency requirements of 441—75.10(249A) and 441—75.53(249A), the
child lives in another state and is not eligible for benefits from the other state pursuant to a program
funded under Title XIX of the federal Social Security Act due to reasons other than:

(1) Failure to provide information, or

(2) Failure to comply with other procedural requirements.

ITEM 2. Adopt the following **new** paragraph **75.57(6)“s”**:

s. Subsidized guardianship program payments.